

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ROQUE MEDINA-ORTIZ,) Criminal No. 07-CR-1475-L
Petitioner,)
v.) **ORDER DISMISSING
PETITIONER'S MOTION UNDER
28 U.S.C. § 2255 TO VACATE, SET
ASIDE OR CORRECT SENTENCE**
UNITED STATES OF AMERICA,)
Respondent.)

On October 8, 2008, Petitioner filed a motion pursuant to 28 U.S.C. § 2255 to vacate, set aside or correct sentence. Given that Petitioner's case is currently on appeal, the Court **DISMISSES** Petitioner's Motion. *See Feldman v. Henman*, 815 F.2d 1318, 1321 (9th Cir. 1987) (Federal prisoners must exhaust their federal appellate review prior to filing *habeas corpus* petition in district court).

IT IS SO ORDERED.

DATED: October 15, 2008



M. James Lorenz
United States District Court Judge

COPIES TO:

PETITIONER
U.S. ATTORNEY'S OFFICE